

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO. 03-12350-RGS

KATHLEEN HOWE,
Plaintiff,

v.

CONTINENTAL CASUALTY COMPANY
Defendant

JOINT STATEMENT REGARDING PRE-TRIAL MATTERS

Pursuant to Local Rule 16.1, the plaintiff, Kathleen Howe and the defendant, Continental Casualty Company hereby file this Joint Statement Regarding Pre-Trial Matters.

1. Proposed Discovery Plan and Schedule for Motions:

The parties propose the schedule set forth below for consideration by the Court. The parties do not wish to conduct phased discovery.

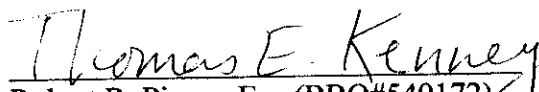
- a. Motions to join other parties and to amend the pleadings must be filed by April 30, 2004.
- b. The Court orders that the Defendant provide to the Plaintiff, on or before April 30, 2004, copies of each of the Records for Judicial Review, unredacted and arranged in an orderly fashion chronologically.

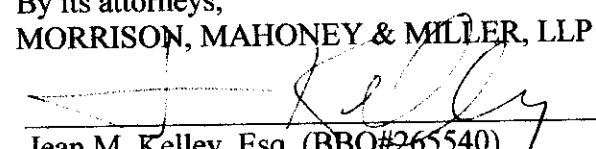
- c. If the Plaintiff claims that any of the records are incomplete or inaccurate in any way, she must notify the Defendant's counsel in writing of such by May 25, 2004. If the Plaintiff does not provide such notice by May 25, 2004, then Defendant shall file with the Court each of the documents served on Plaintiff entitled as "Agreed To Record For Judicial Review." If the Plaintiff does provide such notice, then the parties must then confer to attempt to ascertain an Agreed to Record for Judicial Review. If the parties come to an agreement, they are to immediately file an "Agreed To Record for Judicial Review." If the parties cannot agree on the record for judicial review, then the parties shall file with the Court by June 25, 2004, a document entitled "Partial Record For Judicial Review" which contains only that portion of the record on which the parties agree. By June 25, 2004, the parties are to file memoranda concerning any other matters they seek to have added to the record for judicial review.
- d. If any party proposes that it is entitled to any discovery, to constitute or supplement the record for judicial review, it must file with the Court a submission showing cause for being allowed such discovery. Any request for discovery must be filed by July 30, 2004. Counsel to any party not proposing discovery shall have two weeks from service of a request for such discovery to file an opposition thereto.
- e. If any party proposes that it is entitled to an evidentiary hearing, necessary to supplement the record for judicial review, it must file with the Court a submission showing cause for

being allowed such evidentiary hearing. Any request for such evidentiary hearing must be filed within 30 days of the close of discovery. In the event that no discovery is taken, the request for evidentiary hearing must be filed by July 30, 2004. Counsel to any party not proposing the evidentiary hearing shall have two weeks from service of a request for such a hearing to file an opposition thereto.

- f. Insofar as this matter involves the review of an administrative record whose content will be decided based on the methodology set forth herein, the parties are relieved of any mandatory disclosure requirements under Rule 26 of the Rules of Civil Procedure and the Local Rules.
- g. Summary Judgment motions with accompanying memoranda must be filed by September 30, 2004. Oppositions to such motions must be filed by October 22, 2004.
- h. Hearing on any motions for summary judgment will be held on _____.
- i. A pretrial conference shall be conducted on _____.

KATHLEEN HOWE
By her attorneys,


Robert R. Pierce, Esq. (BBO#549172)
Thomas E. Kenney, Esq. (BBO#561590)
Pierce & Mandell, P.C.
11 Beacon Street, Suite 800
Boston, MA 02108
(617) 720-2444

CONTINENTAL CASUALTY COMPANY,
By its attorneys,
MORRISON, MAHONEY & MILLER, LLP

Jean M. Kelley, Esq. (BBO#265540)
115 Commonwealth Ave.
Chestnut Hill, MA 02467
(617) 964-0323